



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2014-0250; FRL- 9942-16-Region 4]

Air Plan Approval; Tennessee:

Removal of I/M Program in Memphis and Revisions to the 1997 8-Hour Ozone Maintenance

Plan for Shelby County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State of Tennessee's May 23, 2014, State Implementation Plan (SIP) revision, submitted through the Tennessee Department of Environment and Conservation (TDEC) on behalf of the Shelby County Health Department (SCHD), seeking to modify the SIP by removing the Inspection and Maintenance (I/M) program in the City of Memphis, Tennessee, and by incorporating Shelby County's revised maintenance plan for the 1997 8-hour ozone national ambient air quality standards (NAAQS). Among other things, the revised maintenance plan updates the emissions inventory estimates and the motor vehicle emissions budgets (MVEBs) for the years 2006 and 2021 and contains an emissions reduction measure to offset the emissions increase expected from the termination of City of Memphis I/M program. EPA has preliminarily determined that Tennessee's May 23, 2014, SIP revision is consistent with the applicable provisions of the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R04-OAR-2014-0250 by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: EPA-R04-OAR-2014-0250, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Ms. Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2014-0250. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit

through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information may not be publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION**

CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 am to 4:30 pm, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Wong may be reached by phone at (404) 562-8726 or via electronic mail at wong.richard@epa.gov.

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I. What is Being Proposed?

EPA is proposing to approve Tennessee's May 23, 2014, SIP revision seeking to remove the City of Memphis I/M program from the SIP and to incorporate Shelby County's revised

maintenance plan for the 1997 8-hour ozone NAAQS into the SIP.¹ The maintenance plan includes, among other things, an emissions reduction measure to offset the emissions increase expected from the termination of City of Memphis I/M program as well as revised emission inventory estimates and revised MVEBs based upon new modeling associated with the termination of the I/M program and the inclusion of the offset measure. The SIP revision also contains a technical demonstration that the requested removal of the I/M program will not interfere with attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA.

II. What is the Background of the Shelby County Maintenance Area?

Shelby County was designated as nonattainment for the carbon monoxide (CO) NAAQS on March 3, 1978. *See* 43 FR 8962. Local transportation sources in the City of Memphis were identified as the prime contributors to monitored CO violations in Shelby County at that time. The City of Memphis I/M program was adopted as a control strategy to attain the CO NAAQS.

On July 26, 1994 (59 FR 37939), EPA redesignated Shelby County to attainment for the CO standard and approved the initial 10-year CO maintenance plan for Shelby County. Subsequently, further improvements in automotive technology led to a consistent reduction in locally monitored levels of CO. On October 25, 2006, EPA approved the required second 10-year CO maintenance plan which demonstrated that I/M was no longer needed to maintain the CO NAAQS. *See* 71 FR 62384.

¹ The contingency measures portion of Shelby County's maintenance plan for the 1997 8-hour ozone NAAQS, as incorporated into the SIP, includes the implementation of an I/M program in Shelby County as a contingency measure should a monitored violation of the 1997 8-hour ozone NAAQS occur in the former Memphis, TN-AR nonattainment area. The proposed SIP revision will not remove the I/M program from the contingency measures in the SIP-approved maintenance plan.

On April 30, 2004, EPA designated Shelby County, Tennessee, and Crittenden County, Arkansas, as nonattainment for the 1997 8-hour ozone NAAQS, with a classification of ‘moderate’ (hereinafter collectively referred to as the “Memphis 1997 8-hour Ozone Area”). *See* 69 FR 23858. Under CAA section 182(b)(4), moderate ozone nonattainment areas with a census-defined urbanized area population over a given threshold are required to adopt basic I/M as part of the required SIP.

Following the initial designations for the 1997 8-hour ozone standard, Shelby County, the State of Tennessee, Crittenden County, and the State of Arkansas adopted additional measures to control ozone-forming emissions in the region and petitioned EPA to use its discretion under CAA section 181(a)(4) to reclassify the area from moderate to marginal. On September 22, 2004, EPA granted the petition to reclassify the area, which removed the SIP planning requirements mandated of moderate ozone nonattainment areas, including the adoption of a mandatory I/M program, and reset the attainment deadline to June 15, 2007. *See* 69 FR 56697. The Area failed to attain the 1997 8-hour ozone NAAQS by the marginal area attainment deadline. Consequently, on March 28, 2008, EPA reclassified the Area as a moderate nonattainment area. *See* 73 FR 16547. This reclassification reset the attainment deadline to June 15, 2010, with an attainment plan SIP revision due on March 1, 2009, to address all CAA requirements for a moderate ozone nonattainment area, including an I/M program in Shelby County pursuant to CAA section 184(b)(4).

The end of the 2008 ozone monitoring season resulted in a design value for the Memphis 1997 8-hour Ozone Area that met the NAAQS. Tennessee, Mississippi, and Arkansas prepared separate, but coordinated, redesignation requests and maintenance plans for their respective portions of the Area. Tennessee, on behalf of Shelby County, submitted the redesignation

request and maintenance plan for its portion of the 1997 8-hour Ozone Area to EPA on February 26, 2009, prior to the attainment plan SIP revision due date.

EPA approved Tennessee's redesignation request and maintenance plan on January 4, 2010. *See* 75 FR 56. Although there was no longer a mandatory requirement to implement I/M in Shelby County under section 184(b)(4) of the CAA, the City of Memphis continued to operate its I/M program, and the SIP-approved maintenance plan for the 1997 8-hour ozone NAAQS includes the implementation of a basic I/M program in Shelby County as a contingency measure in the event that the 1997 8-hour ozone NAAQS is violated in the 1997 8-hour Ozone Area after redesignation. In mid-2012, the Memphis City Council voted to defund the City of Memphis I/M program beginning with Fiscal Year 2013/2014. Vehicle inspection operations at all four City of Memphis inspection stations ended on June 28, 2013. Tennessee's May 23, 2014, SIP submission addresses the termination of this program.

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). EPA designated Shelby County; Crittenden County, Arkansas; and a portion of Desoto County, Mississippi, as a marginal nonattainment area for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) (hereinafter collectively referred to as the "Memphis 2008 8-hour Ozone Area"). *See* 77 FR 30088 (May 21, 2012). Currently, monitoring data for the Memphis 2008 8-hour Ozone Area indicates that the Area has attaining data for the 2008 8-hour ozone NAAQS. As noted previously, marginal ozone nonattainment areas are not required to adopt an I/M program.

III. What are the Requirements of CAA Sections 110(l) and 193?

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) (as defined in section 171), or any other applicable requirement of the Act. Tennessee's May 23, 2014, SIP revision includes a demonstration that the requested actions comply with section 110(l) of the CAA. EPA evaluates each section 110(l) noninterference demonstration on a case-by-case basis considering the circumstances of each SIP revision.

EPA interprets 110(l) as applying to SIP revisions for all areas of the country, whether attainment, nonattainment, unclassifiable, or maintenance for one or more of the six criteria pollutants.² EPA also interprets section 110(l) to require a demonstration addressing all criteria pollutants whose emissions and/or ambient concentrations may change as a result of the SIP revision. The degree of analysis focused on any particular NAAQS varies depending on the nature of the emissions associated with the proposed SIP revision.

In nonattainment areas, EPA will generally not approve a SIP revision under 110(l) that allows additional emissions of pollutants for which the area is designated nonattainment in the absence of equivalent emissions reductions or an attainment demonstration addressing the proposed changes to the SIP. "Equivalent" emissions reductions are reductions that are equal to or greater than those reductions achieved by the control measure approved in the SIP. To show that compensating emissions reductions are equivalent, adequate justification must be provided. The compensating, equivalent reductions must represent actual emissions reductions achieved in a contemporaneous time frame to the change of the existing SIP control measure in order to preserve the status quo level of air emissions. If the status quo is preserved, noninterference is

² The six NAAQS for which EPA establishes health and welfare based standards are CO, lead, NO₂, ozone, PM, and SO₂.

demonstrated. In addition to being contemporaneous, the equivalent emissions reductions must also be permanent, enforceable, quantifiable, and surplus.

Section 193 of the CAA prohibits the modification of control measures in effect before November 15, 1990, in a nonattainment area for any air pollutant unless the modification insures equivalent or greater emission reductions of that pollutant. Shelby County included a section 193 analysis in its SIP revision because it requested removal of the I/M program from the SIP, because Shelby County is in a nonattainment area for the 2008 8-hour ozone NAAQS, and because I/M programs may impact ozone air quality.³ As discussed in Section IV, Shelby County included emissions reductions from the closure of the Cleo, Inc. (Cleo) facility to offset the estimated increase in emissions due to the termination of the City of Memphis I/M program and to support the State's analysis of its requested actions under CAA sections 110(l) and 193 as they relate to the ozone NAAQS.⁴

IV. What is EPA's Analysis of Tennessee's Submittal and Request?

Tennessee's May 23, 2014, SIP revision seeks to remove the City of Memphis I/M program from the SIP and incorporate Shelby County's revised maintenance plan for the 1997 8-hour ozone NAAQS. The maintenance plan includes, among other things, an emissions reduction measure to offset the emissions increase expected from the termination of City of Memphis I/M program as well as revised emission inventory estimates and revised MVEBs based upon new modeling associated with the requested removal of the I/M program and upon

³ Shelby County is designated nonattainment only for the 2008 8-hour ozone NAAQS.

⁴ The Cleo facility was a gift wrap manufacturing plant and warehouse located at 4025 Viscount Avenue, Memphis, Tennessee.

the inclusion of an offset measure.⁵ The SIP revision also contains a technical demonstration to support the State's analysis of its requested actions under CAA sections 110(l) and 193. The revised MVEBs are discussed later on in this document.

a. Non-interference Analyses Related to the Removal of the City of Memphis I/M Program

Tennessee's SIP revision includes an evaluation of the impact that the requested removal of the City of Memphis I/M program would have on attainment and maintenance of the NAAQS for each criteria pollutant. This notice focuses on the ozone and particulate matter (PM) NAAQS because the termination of the I/M program is expected to increase VOC emissions from on-road mobile sources and because VOCs are precursors to ozone and PM.^{6, 7, 8, 9} The SIP revision includes revised mobile source emissions modeling using EPA's Motor Vehicle Emission Simulator (MOVES) on-road mobile source model to estimate the emissions increases associated with the termination of the I/M program. As part of its technical demonstration under CAA

⁵ The other revisions to the maintenance plan are textual changes addressing the requested removal of the I/M program, the inclusion of the Cleo facility offsets, the revised MVEBs and emissions inventory, and voluntary measures that may improve ozone air quality in the 1997 8-hour Ozone Area. These textual changes do not result in emissions increases and therefore will not interfere with attainment or maintenance of any NAAQS.

⁶ EPA redesignated Shelby County to attainment for the CO NAAQS in 1994. *See* 59 FR 37939. On October 25, 2006, EPA approved the second ten-year CO maintenance plan for the Memphis/Shelby County CO Maintenance Area with a 2017 CO safety margin of 480.69 tpd that did not include the I/M program and concluded that the I/M program is not necessary for maintenance of the CO standard. *See* 71 FR 62384.

⁷ Sulfur dioxide (SO₂) is emitted from motor vehicles, but the amount emitted is a function of the sulfur content of the fuel being combusted. Because the I/M program did not address fuel composition, its termination has no impact on SO₂ emissions.

⁸ The termination of the I/M program will have no impact on lead emissions because lead is no longer blended into on-road motor fuel.

⁹ On February 17, 2012, EPA designated all counties in Tennessee as unclassifiable/attainment for the 2010 NO₂ NAAQS. *See* 77 FR 9532. NO₂ is a subset of NO_x, and as shown in the mobile source modeling, termination of the I/M program does not increase NO_x emissions.

sections 110(l) and 193, Tennessee’s SIP revision quantifies the emissions reductions from the closure of the Cleo, Inc. facility for use as offsets for the requested removal of the I/M program from the SIP and includes those offsets in its revised maintenance plan for incorporation into the SIP.

i. Non-interference Analysis for the Ozone NAAQS

The SIP revision quantifies the potential emissions increases in NO_x and VOC due to the termination of the I/M program using MOVES2010b,¹⁰ the most current EPA-approved on-road emission model at the time that Tennessee submitted its SIP revision, with inputs developed by the current travel demand model (TDM) used by the Memphis Area Metropolitan Planning Organization (MPO). Shelby County chose 2013 as the year for analysis of the affected change in emissions after consultation with air quality and transportation partners, including the MPO and EPA, because the I/M program terminated in June 2013.

The 2013 inputs for the MOVES model were developed by interpolating TDM results for 2011 and 2015 in order to use the model to estimate the emissions increases in 2013 associated with the termination of the Memphis I/M program. The results of this modeling are provided in Table 1:

Table 1 – On-Road Mobile Source Emissions Comparison for the 2013 Ozone Season

	No I/M	With I/M	Change	
	tons/day	tons/day	tons/day	percentage
VOC	13.609	13.257	0.352	2.66 %
NO _x	29.652	29.652	0.000	0.00 %

¹⁰ Shelby County’s 2010b MOVES modeling conforms with EPA’s modeling guidance at the time of the SIP submittal.

The County's on-road mobile source modeling predicts that the termination of the City of Memphis I/M program will increase 2013 ozone season VOC by approximately 0.352 tons per ozone season day and will not increase NOx emissions. Therefore, the SIP revision includes VOC emissions reductions that offset 128.48 tons per year (tpy) (0.352 tons per day (tpd) multiplied by 365 days per year).¹¹

Tennessee's SIP revision seeks to incorporate the emissions reductions from the closure of the Cleo facility for use as offsets for the termination of the I/M program. The company ceased operation in 2011 and submitted a letter to Shelby County on January 4, 2012, requesting termination of its Title V air permit effective at the end of 2011, making the reductions permanent and enforceable. SCHD issued a Title V termination letter on April 3, 2012. Shelby County quantified the emissions reductions associated with the Cleo facility shutdown by averaging the certified annual emissions reported by the facility to the County in 2009 and 2010, the last two full years of operation. In 2009 and 2010, Cleo reported and paid air pollution fees on actual VOC emissions of 239.1 tons and 254.5 tons, respectively, resulting in an annual average of 246.8 tpy (0.676 tpd across the calendar year). During the same operational period, Cleo averaged 1.09 tpy of NOx emissions (0.003 tpd across the calendar year). Shelby County banked the Cleo shutdown emissions reductions for use as industrial permitting offsets in the Memphis 2008 8-hour Ozone Area and has elected to remove 0.387 tpd (0.352 tpd multiplied by the 1.1:1 offset ratio in CAA section 182(a)(4)) of these shutdown VOC emissions reductions from the bank to offset the estimated VOC emissions increase resulting from the termination of the I/M Program. EPA proposes to agree with the County's technical demonstration.

¹¹ Using an annual average provides a more a conservative estimate for the total amount of emissions reductions needed as an offset.

ii. Non-interference Analysis for the PM NAAQS

Shelby County evaluated the potential for the requested removal of the I/M program to interfere with maintenance of the PM NAAQS in the County because studies have shown that VOCs can be a precursor to PM in certain chemical and meteorological circumstances. The County concluded that the termination of the I/M program would not interfere with attainment or maintenance of the PM_{2.5} NAAQS because the PM_{2.5} design values for the Area are below the PM_{2.5} NAAQS; VOC emissions are projected to decline through 2021 without the I/M program; and the VOC emissions reductions from the shutdown of the Cleo facility offset the projected VOC emissions increases from the termination of the I/M program. EPA proposes to agree with the County's technical demonstration.

b. 1997 8-Hour Ozone NAAQS Maintenance Plan – Emissions Inventory Update

The revised maintenance plan included in Tennessee's SIP revision contains an updated emissions inventory with emissions projections that account for the termination of the I/M program and the closure of the Cleo facility. Shelby County emissions for 2021 remain the same as those provided in the Shelby County 1997 8-hour Ozone Maintenance Plan approved by EPA on January 4, 2010 (75 FR 56), with the exception of on-road mobile and point source emissions. On-road emissions for 2006 and 2021 in the revised maintenance plan were remodeled using MOVES2010b, and they replace the on-road emissions estimates derived from the previous model, MOBILE6.2. The MOVES model includes the road class VMT as an input file and generates on-road mobile source emissions estimates that take into consideration expected

Federal tailpipe standards, fleet turnover, and new fuels. The MOVES modeling accounts for the termination of the I/M program in 2013.

Point source emissions for 2006 remain the same; however, Tennessee adjusted the 2021 point source emissions for VOCs and NO_x from the 2010 1997 8-hour Ozone Maintenance Plan by including the emissions reductions resulting from the closure of the Cleo facility. The change in emissions for on-road and point source is reflected in Table 2, and projections for on-road mobile, point, area, and non-road mobile sources are presented in Table 3. The revised maintenance inventory demonstrates that future emissions of VOCs and NO_x through 2021 will remain below those in base year 2006, thereby indicating that Shelby County will continue to maintain the 1997 8-hour ozone NAAQS through the end of the maintenance plan period.

**Table 2 – Change in NO_x and VOC Emissions Inventory
(Ozone season tons per day)**

VOC			
Type Inventory	Year	On-Road	Point
Base year	2006	-1.23	No change
Projection	2021	-2.80	-0.676
NO_x			
Base year	2006	2.14	No change
Projection	2021	-0.96	-0.003

Table 3 – NO_x and VOC Emissions Inventory

(Ozone season tons per day)

VOC							
Type Inventory	Year	Area	Non-Road	On-Road*	Point**	Total	Baseline
Base year	2006	37.531	22.698	23.986	13.665	97.880	97.880
Projection	2021	47.039	19.734	8.558	17.715	93.046	97.880
NOx							
Base year	2006	2.101	26.657	58.013	14.458	101.229	101.229
Projection	2021	2.695	21.607	16.035	18.373	58.710	101.229

*2006 on-road emissions include emissions reductions from the City of Memphis I/M program, and the 2021 on-road emissions projections include emissions increases from the termination of the City of Memphis I/M program.

** The 2021 point source projections for VOC and NOx account for the shutdown of the Cleo facility and have been reduced from the 2021 VOC and NOx point source projections in the 2010 maintenance plan by 0.676 tpd and 0.003 tpd, respectively.

c. What are the Revised MVEBs?

Tennessee's May 23, 2014, maintenance plan revision updates the MVEBs for 2006 and 2021 using on-road mobile source emissions estimates from MOVES and removes the MVEBs for 2009 and 2017. The revised 2021 MVEB accounts for the termination of the I/M program and the shutdown of the Cleo facility. These budgets are used by transportation authorities to assure that transportation plans, programs, and projects are consistent with, and conform to, the maintenance of acceptable air quality in the Memphis 1997 8-hour Ozone Area.

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of

roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

According to 40 CFR 93.118, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2021). The updated MVEBs in the revised maintenance plan for the 1997 8-hour ozone NAAQS are for the base year (2006) and the last year of the first 10-year maintenance plan (2021). The 2021 MVEB reflects the total on-road mobile source emissions for

2021 plus an allocation from the available VOC and NO_x safety margins. The MVEBs are presented in Table 4.

**Table 4 – Shelby County VOC and NO_x MVEBs
(Ozone season tons per day)**

	2006	2021
NO _x	58.013	56.428
VOC	23.986	12.782

The previously approved 1997 8-hour ozone maintenance plan for Shelby County contained interim MVEBs for years 2006, 2009, and 2017 in addition to the required maintenance year MVEB of 2021. The consensus formed during the interagency consultation process was that MVEBs should only be set for 2006 and 2021.¹² Therefore, the revised maintenance plan removes the interim budgets for years 2009 and 2017.

Under 40 CFR 93.101, the safety margin is the difference between the attainment level and the projected level, from all sources, of emissions in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which Shelby County met the 1997 8-hour ozone NAAQS. The safety margin, in whole or in part, can be allocated to the transportation sector as long as total emissions from all categories remain below the attainment level.

For the revised 2021 MVEBs, Shelby County allocated ninety-five percent of the VOC and NO_x safety margin emissions to the MVEB.¹³ Specifically, Shelby County allocated 4.224

¹² The transportation conformity provisions of the CAA require interagency consultation in the development of MVEBs. The consultation process involves federal agencies (EPA, Federal Highway Administration, and Federal Transit Administration), state and local transportation agencies, state and local air agencies, and metropolitan planning organizations.

¹³ Shelby County calculated the NO_x safety margin by subtracting 2021 projected emissions from 2006 baseline emissions and further subtracting 0.387 tpd to account for the offset applied to the removal of the City of Memphis

tpd of the available VOC safety margin and 40.393 tpd of the available NO_x safety margin to the 2021 MVEBs. The remaining safety margin in 2021 for VOC is 0.223 tpd and for NO_x is 2.126 tpd. The allocation from the safety margins is available because of reductions of VOC and NO_x that have occurred, and are projected to occur through 2021, primarily from mobile sources. VOC and NO_x reductions are anticipated from non-road mobile source categories, but not to the extent that they occur in the on-road source category. VOC reductions from area sources are also anticipated to occur due to control techniques instituted on a federal level on industrial manufacturing activities. However, future population increases act to balance area source reductions such that there is a net increase in VOC emissions in this source category.

The MVEB is constrained to assure that the total emissions from all source categories do not exceed the 2006 attainment year emissions. The MVEBs are consistent with the plan for maintaining total emissions from all source categories at or below the 2006 VOC and NO_x emission levels through 2021. For future year conformity determinations, transportation authorities must rely on the MVEBs unless plan revisions occur. Through this rulemaking, EPA is proposing to approve the MVEBs for NO_x and VOC for 2006 and 2021 for Shelby County because EPA believes that the County maintains the 1997 8-hour ozone NAAQS with the emissions at the levels of the budgets. After thorough review, EPA is proposing to approve the budgets because they are consistent with maintenance of the 2008 8-hour ozone NAAQS through 2021.

V. Proposed Action

I/M program (i.e., 97.880 tpd (2006 baseline) – 93.046 tpd (2021 projection) – 0.387 tpd (offset applied) = 4.447 tpd (NO_x safety margin)).

EPA is proposing to approve Tennessee's May 23, 2014, SIP revision that seeks to remove the City of Memphis I/M program from the SIP and incorporate Shelby County's revised maintenance plan for the 1997 8-hour ozone NAAQS that includes an emission reduction measure to offset the emission increases associated with the requested removal of the I/M program from the SIP. The revised maintenance plan also contains updated attainment inventories and updated MVEBs for NO_x and VOC for 2006 and 2021 for Shelby County.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submittal that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 28, 2016.

Heather McTeer Toney
Regional Administrator,
Region 4

[FR Doc. 2016-02844 Filed: 2/11/2016 8:45 am; Publication Date: 2/12/2016]